



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 28, 1995

Ms. Alesia L. Sanchez  
Legal Assistant  
Legal and Compliance, 110-1A  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR95-100

Dear Ms. Sanchez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 29042.

The Texas Department of Insurance (the "department") received a request for information about American Mutual Reinsurance Company. You assert that the requested information is excepted from required public disclosure based on sections 552.107(1), 552.111 and 552.112 of the Government Code.

Section 552.107(1) states that information is excepted from required public disclosure if

it is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Rules of the State Bar of Texas.

Although section 552.107(1) appears to except information within rule 1.05 of the Texas State Bar Disciplinary Rules of Professional Conduct, the rule cannot be applied as broadly as written to information that is requested under the Open Records Act. Open Records Decision No. 574 (1990) at 5. Section 552.107(1) is limited to material within the attorney-client privilege for confidential communication; "unprivileged information" as defined by rule 1.05 is not excepted under section 552.107(1). Furthermore, this exception applies only to information that reveals attorney advice and opinion or client confidences. *See id.* We have marked the portions of one document to which this exception applies.

Section 552.111 of the Government Code excepts from required public disclosure

An interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency.

This exception applies to a governmental body's internal communications consisting of advice, recommendations, or opinions reflecting the policymaking process of the governmental body at issue. *See* Open Records Decision No. 615 (1993). This exception does not except from disclosure purely factual information that is severable from the opinion portions of the communication. *See id.* We have marked the portions of the requested information that the department may withhold under section 552.111.

Section 552.112(a) excepts from required public disclosure

information contained in or related to examination, operating, or condition reports prepared by or for an agency responsible for the regulation or supervision of financial institutions or securities, or both.

Insurance companies are included within the term "financial institutions" for purposes of section 552.112(a). *Open Records Decision No. 158 (1977) at 5-6.* Portions of the requested information contain information about the financial condition of insurance companies. The department may withhold this information from required public disclosure under section 552.112(a). We have marked the documents accordingly.<sup>1</sup>

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo  
Assistant Attorney General  
Open Government Section

---

<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision No. 499, 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

KHG/rho

Ref.: ID# 29042

Enclosures: Marked documents

cc: Mr. Kevin Hamby  
Fulbright & Jaworski L.L.P.  
2200 Ross Avenue, Suite 2800  
Dallas, Texas 75201  
(w/o enclosures)